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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,551	07/10/2006	Didier Vivien	0512-1340	3566

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YOUNG & THOMPSON
209 Madison Street
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EXAMINER	
CULLEN, SEAN P	

ART UNIT	PAPER NUMBER
1795	

NOTIFICATION DATE	DELIVERY MODE
06/25/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/579,551	VIVIEN ET AL.	
	Examiner	Art Unit	
	Sean P. Cullen	1795	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 June 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Basia Ridley/
Supervisory Patent Examiner, Art Unit 1795

Continuation of 11. does NOT place the application in condition for allowance because: Regarding applicant's argument that claim 1 recites that the auxiliary electrical cell supplies electrical energy to an engine for the propulsion of the movable device and all members of the electrical cell during the stage of launching (page 2, para. 4), it is noted that the features upon which applicant relies (i.e., the auxiliary cell supplies electrical energy to an engine for the propulsion of the movable device and all members of the electrical cell during the stage of launching) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Claim 1 recites "the auxiliary cell is configured to supply electrical energy to an engine for the propulsion of the movable device and all members of the electrical cell during the stage of launching."

Regarding applicant's argument that Guy is not connected to an engine for the propulsion of a movable device (page 3, para. 6), it is noted that the features upon which applicant relies (i.e., the auxiliary cell is connected to an engine for the propulsion of a movable device) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); In re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Regarding applicant's argument that the proposed combination of references does not suggest the invention as claimed in claim 1 (page 3, para. 7), the combination of Tribioli, Charlot and Leben teach the structural limitations of an electrical cell for the propulsion of a movable device in an aquatic medium. Guy discloses the auxiliary electrical cell supplies electrical energy during the stage of launching. The claim as recited does not require the auxiliary electrical cell to be connected or directly supply electrical energy to an engine for the propulsion of the movable device. Tribioli and Charlot disclose the auxiliary electrical cell initiates the production of electrical energy from the main electrical cell, which provides electrical energy to an engine for the propulsion of the movable device. Therefore, Tribioli and Charlot disclose an auxiliary electrical cell configured to supply electrical energy to an engine for the propulsion of the movable device. Guy discloses that an auxiliary electrical cell initiates the production of electrical energy from the main electrical cell during the stage of launching. Therefore, the combination of Tribioli, Charlot, Leben and Guy teach an auxiliary electrical cell is configured to supply electrical energy to an engine for the propulsion of the movable device and all members of the electrical cell during the stage of launching.

Regarding applicant's argument that claim 3 is patentable at least for depending from an allowable independent claim (page 4, para. 3), claim 1 is not allowable as detailed above.

Regarding applicant's argument that claim 9 is patentable at least for depending from an allowable independent claim (page 4, para. 5), claim 1 is not allowable as detailed above.

Regarding applicant's argument that claim 11 is patentable at least for depending from an allowable independent claim (page 5, para. 2), claim 1 is not allowable as detailed above.

Regarding applicant's argument that claim 12 is patentable at least for depending from an allowable independent claim (page 5, para. 4), claim 1 is not allowable as detailed above.

Regarding applicant's argument that claim 13 is patentable at least for depending from an allowable independent claim (page 6, para. 2), claim 1 is not allowable as detailed above.

Regarding applicant's argument that claim 14 is patentable at least for depending from an allowable independent claim (page 6, para. 4), claim 1 is not allowable as detailed above.

Regarding applicant's argument that claim 15 is patentable at least for depending from an allowable independent claim (page 7, para. 1), claim 1 is not allowable as detailed above.

Regarding applicant's argument that claim 16 is patentable at least for depending from an allowable independent claim (page 7, para. 3), claim 1 is not allowable as detailed above.